

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CURTIS STOCKLEY, JR., ET AL.	:	CIVIL ACTION
	:	
v.	:	
	:	
DARBY BOROUGH, ET AL.	:	NO. 10-688

**ORDER**

**AND NOW**, this 23rd day of February, 2011, upon consideration of Defendant Robert Smythe's Motion to Dismiss the Second Amended Complaint (Docket No. 20), and Plaintiff's opposition thereto, and for the reasons stated in the accompanying Memorandum, **IT IS HEREBY ORDERED** that Motion to Dismiss the Second Amended Complaint is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The Motion is **GRANTED** insofar as it seeks dismissal of Counts II and III and the Fourth Amendment claim in Count I.
2. In all other respects, the Motion is **DENIED**.

BY THE COURT:

/s/ John R. Padova, J.

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John R. Padova, J.